bill directs the Federal Reserve to report to Congress and develop regulations to ensure that all charges related to the extension of credit are included in the finance charges. Lenders and consumers agree that it is important to alleviate confusion over the treatment of fees in the finance charge. The Federal Reserve has 1 year to develop these regulations.

The bill specifically exempts certain charges from the finance charge, including third party fees, taxes on security instruments, fees for preparations of loan documents, and fees relating to pest infestations. The purpose of the exemptions is to provide some clarity on the treatment of those fees until the Fed acts to ensure that the finance charge definition more accurately reflects the cost of providing credit. The fact that these exemptions are included does not create a presumption or requirement for the Fed to exclude them from the definition of finance charges. The Fed should include all charges in the finance charge unless those charges are not related to the extension of credit. I look forward to the Federal Reserve's action and I am hopeful this will lead to simpler and more common sense disclosure.

Mr. President, I am pleased that a reasonable agreement, embodied in H.R. 2399, has been reached to address the Rodash problem. I urge my colleagues to support this bill.

Mr. MACK. Mr. President, the Truth in Lending Act Amendments of 1995 will finally bring an end to the massive potential liability facing the mortgage industry as a result of extraordinary penalties under the Truth in Lending Act [TILA] for technical errors. Recognizing the threat to mortgage lending, we placed a moratorium on class actions for certain technical violations under TILA to give us an opportunity to develop a solution. The Truth in Lending Act Amendments of 1995 provide that solution.

This bill does a number of important things. First, it provides retroactive relief to the mortgage industry from the extreme potential liability that was caused by the Rodash versus AIB Mortgage Co. case. This problem, which seriously threatened the viability of residential mortgage lending in this country including the mortgage-backed securities markets, was caused by the ambiguity surrounding the proper treatment of certain charges, and the extremely low tolerance for any error in making disclosures. The current treatment of fees, such as mortgage broker fees, has been challenged in litigation. It is not fair to subject a lender to extreme penalties for their treatment of these fees, which some are now trying to recharacterize as finder's fees. The entire industry historically excluded these fees from the finance charge, without regard to whether the broker received yield spread premiums or other types of compensation from the lender—known or unknown to the borrower—or whether the broker is acting as an agent of the borrower, the lender or both. Based upon the preexisting language of TILA, Regulation Z and the Federal Reserve Board commentary—particularly 4(a)–3, this exclusion is manifestly correct. However, it seems proper to eliminate any issue whatsoever. With this legislation, lenders will now be able to get on with the business of making loans.

Second, the bill prospectively clarifies the treatment of specific charges such as tangible taxes and courier fees. This gives creditors greater certainty and provides consumers with more accurate disclosures through uniform treatment of charges. The Federal Reserve is also directed to review the finance charge disclosure and make recommendations to improve it. Specifically we are looking for recommendations that make the finance charge disclosure more accurately reflect the cost of credit. In addition, we would like suggestions on how to eliminate any abusive practices that have developed in the reporting of the finance charge.

Third, recognizing the highly technical nature of the Truth in Lending Act, the bill raises the tolerance level for understated disclosures for all future transactions from $10 to $100 for civil liability purposes. For errors which can lead to rescission of the loan, which is a much more extreme penalty, the tolerance is ½ of 1 percent of the loan amount. However, for certain refinance loans where the refinancing borrower did not receive additional new advances from the creditor, the tolerance is 1 percent of the loan amount. In accordance with current Federal Reserve regulations, funds to finance the closing costs of the transaction do not constitute new advances.

Fourth, the bill clarifies that loan servicers are not assignees for purposes of Truth in Lending liability if they only own legal title for servicing purposes.

Fifth, the bill raises the statutory damages for individual actions from $1,000 to $2,000. Statutory damages are provided in TILA because actual damages, which require proof that the borrower suffered a loss in reliance upon the inaccurate disclosure, are extremely difficult to establish.

Sixth, the bill preserves the consumer's 3-day rescission period for all refinance loans with different creditors. As currently set forth in the Truth in Lending Act, this cooling off period expires in 3 years. Contrary to some court decisions which have allowed this rescission period to extend for as long as 8 years after the loan was closed in the context of recoupment, the existing statutory language is clear: 3 years means 3 years and the time period shall not be extended except as explicitly provided in section 125(f).

Moreover, as is currently set forth in the Federal Reserve regulations, when a borrower refinances an existing loan and takes out new money, only the new money is subject to rescission.

This legislation is critical to avert what could be a financial disaster in the mortgage industry. I appreciate the bipartisan effort to fix the problems with the Truth in Lending Act while still protecting the rights of the consumers and I urge the adoption of this bill.

Mr. GRAMM. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2399) was deemed read a third time and passed.

SMALL BUSINESS LENDING ENHANCEMENT ACT OF 1995—CONFERENCE REPORT

Mr. GRAMM. Mr. President, I submit a report of the committee of conference on S. 895 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 895) to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. GRAMM. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and that any statement related to the conference report be included in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

EXPENDITURES FOR OFFICIAL OFFICE EXPENSES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 176, submitted earlier today by Senators WARNER and FORD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Res. 176) relating to expenditures for official office expenses.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.